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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,781	07/28/2003	LaTanya Y. Patty-Brown	22510.00	5345
37833	7590	01/26/2005	EXAMINER	
LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			GIBSON, KESHIA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20040118

DATE MAILED:

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Commissioner for Patents

Office Action Summary

Application No.

10/627,781

Applicant(s)

PATTY-BROWN ET AL.

Examiner

Keshia Gibson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/28/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/30/2004 have been fully considered but they are not persuasive. Focusing on Lonon, applicant has argued that:

1) The garments disclosed by Lonon are not disposable. However, Lonon is still considered disposable; any garment can be disposed.

2) The claimed belt portion is set forth as being disposed around the midriff of the wearer, while the belt portion of Lonon extends beyond the midriff and covers the buttocks and portions of the wearer's hips. However, Lonon structurally meets the claims set forth by the claimed invention and applicant's reliance on the garment's point of contact on user is not given weight since the garment would contact differently-sized users in different locations on the body.

3) Lonon further discloses one garment that additionally covers the upper torso of the wearer. It is granted that Lonon discloses various embodiments for an undergarment; nevertheless, this does not negate that Lonon has disclosed embodiments of the invention that anticipate the claimed invention.

4) The flap portion of Lonon does not anticipate the recited rectangular segment as set forth in Claim 1. It is pointed out that the applicant has stated that the flap portion is "generally rectangular," and Lonon's flap is generally rectangular.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claim s 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lonon (U.S. Pat. 4, 835, 795).

In regard to Claim 1, Lonon discloses an undergarment **1/11** with a seat flap **4/14** that can be opened and closed with a self-gripping fastener **5/15**, **6/16** (abstract). Lonon also discloses that the undergarment can made of any fabric suitable for undergarments or body suits (column 2, lines 34-37). If a disposable undergarment were desired, this would allow for the undergarment to be made from a nonwoven fabric or other disposable fabric material. Referring to the embodiment shown in Figure 7, the undergarment can be considered to have a belt portion comprised of the front body panel **12** and back panel **13**. These panels can be mated using hook and loop type fasteners **18**, **19** (column 3, lines 25-28).

The seat flap **4/14** is permanently attached to the back panel **2/13** (column 1, lines 30-32). The front end of the seat flap **5/15** is attached to the front body panel of the undergarment **3/12** with hook and loop type fasteners (column 1, lines 32-45).

Lonon also discloses attaching a third loop type fastener strip **7/17** to the back panel of the undergarment **2/13**; this third strip **7/17** can then secure the seat flap to the back panel **2/13** of the garment to prevent it from being soiled (column 1, lines 46-52).

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In regard to Claim 2, as discussed above, Lonon discloses that the front and back panels can be mated using hook and loop type fasteners **18, 19** (column 3, lines 25-28).

In regard to Claim 3, as discussed above, the front end of the seat flap **5/15** is attached to the front body panel of the undergarment **3/12** with hook and loop type fasteners (column 1, lines 32-45).

In regard to Claim 4, as discussed above, Lonon discloses using a third strip **7/17** to secure the seat flap to the back panel **2/13** of the garment, preventing it from being soiled (column 1, lines 46-52).

In regard to Claim 5, Lonon discloses an elastic waist band (column 2, lines 50-51).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out of the office every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KG 1/18/05



Larry I. Schwartz
Supervisory Patent Examiner
Group 3700